

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ALLAN BARREDA, and all other Plaintiffs
similarly situated known and unknown,

Plaintiff,

v.

PROSPECT AIRPORT SERVICES, INC.,

Defendant.

No. 08 C 3239

Judge Kennelly
Magistrate Judge Nolan

**NOTICE OF FILING PLAINTIFF'S RESPONSE IN OPPOSITION TO
DEFENDANT'S MOTION TO ENLARGE TIME**

PLEASE TAKE NOTICE that on June 26, 2008, there was filed with the Clerk of the United States District Court, Northern District of Illinois, Eastern Division, Plaintiff's Response in Opposition to Defendant's Motion to Enlarge Time, a copy of which is attached and hereby served upon you.

Dated: June 26, 2008

Respectfully submitted,

Marc J. Siegel, #06238100
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ALLAN BARREDA

By: /s/ Marc J. Siegel
Attorney for Plaintiff

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**PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT'S
MOTION TO ENLARGE TIME**

Plaintiff, Allan Barreda ("Barreda"), by and through his attorneys, Caffarelli & Siegel Ltd., submits this Response in Opposition to Defendant's Motion to Enlarge Time. For the reasons set forth below, Defendant's Motion to Enlarge Time should be denied.

1. On June 6, 2008, Plaintiff filed the Complaint in the instant matter, alleging violations of the Fair Labor Standards Act, 29 U.S.C. §201, *et seq.* ("FLSA"), the Portal-to-Portal Act, 29 U.S.C. §251 *et seq.*, the Illinois Minimum Wage Law, 820 Ill. Comp. Stat. 105/1 *et seq.*, ("IMWL"), and the Illinois Wage Payment and Collection Act, 820 Ill. Comp. Stat. 115/1 *et seq.* ("IWPCA"), for Defendant's failure to pay minimum, overtime, and other wages due to Plaintiff and other similarly situated employees.

2. Defendant's registered agent, Pedersen & Houpt, was properly served with a copy of the Complaint on June 6, 2008. As such, Defendant's Answer is currently due on June 26, 2008.

3. On June 16, 2008, Lauren Blair and Arthur M. Holtzman filed attorney appearances on behalf of Defendant. Ms. Blair and Mr. Holtzman are both members of the law firm of Pedersen & Houpt.

4. On or about June 18, 2008, Ms. Blair contacted Plaintiff's attorney, Marc J. Siegel, regarding a potential extension of time to file Defendant's Answer. Specifically, Ms. Blair requested a thirty day extension of time. However, in requesting the extension, Ms. Blair did not mention any scheduling conflicts and/or upcoming vacations.

5. The Complaint is not complicated, and includes straightforward allegations under the FLSA, Portal-to-Portal Act, IMWL, and IWPCA. As such, Defendant should not need an additional thirty days to file its Answer.

6. Under the FLSA, an employee is limited to recovering unpaid wages during the period of two years prior to the filing of a complaint, or three years if the employee can prove that the employer willfully violated the Act. 29 U.S.C. § 255(a). Moreover, in a collective action, such as the instant matter, the statute of limitations for potential opt-in plaintiffs is not tolled by the filing of the complaint. 29 U.S.C. § 256. Rather, an opt-in plaintiff will only be able to recover unpaid wages for the two or three year period preceding the filing of his/her opt-in consent with the Court. 29 U.S.C. § 256.

7. Mr. Siegel explained to Ms. Blair that a thirty day extension would prejudice the potential opt-in plaintiffs. Specifically, Defendant's requested extension would delay Plaintiff's ability to file a motion to send an opt-in notice to potential opt-in plaintiffs, thereby also delaying the mailing of such notice, as well as the filing of potential opt-in plaintiffs' consent to join the lawsuit. In short, Defendant's requested extension is likely to reduce the potential opt-in plaintiffs' recovery.

8. Nevertheless, Mr. Siegel indicated that Plaintiff would agree to provide Defendant with a two week extension. However, Ms. Blair stated that Defendant would not accept Plaintiff's proposed two week extension, even though it and its counsel have had a copy of the Complaint since June 6, 2008.

9. Ms. Blair also declined at the time to set a date with Mr. Siegel during their June 18th conversation for the parties' Rule 26 meeting, thereby further hindering the progress of this matter.

10. Based upon the above, Defendant has failed to show good cause under Fed. R. Civ. P 6(b) for needing a thirty day extension of time to file its Answer.

WHEREFORE, Plaintiff Allan Barreda respectfully requests this Honorable Court to deny Defendant Prospect Airport Services, Inc.'s Motion to Enlarge Time.

Dated: June 26, 2008

Respectfully submitted,

Marc J. Siegel, #06238100
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ALLAN BARREDA

By: /s/ Marc J. Siegel
Attorney for Plaintiff

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that he caused a copy of the attached, Plaintiff's Response in Opposition to Defendant's Motion to Enlarge Time, to be served upon the party below by electronically filing with the Clerk of the U.S. District Court of the Northern District of Illinois on June 26, 2008.

Lauren Blair
Arthur M. Holtzman
Pedersen & Houpt
161 N. Clark St., Suite 3100
Chicago, IL 60601

Courtesy copies delivered to chambers of Judge Kennelly on the same day via hand delivery.

/s/ Marc J. Siegel
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